

REMARKS

This application has been reviewed in light of the Office Action mailed July 5, 2007. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 2, 3, 5, 8 and 10 are pending in the application with Claims 2, 3, 5 and 10 being in independent form. By the present amendment, Claims 2, 3, 5 and 10 are amended. No new subject matter is introduced into the disclosure by way of the present amendment.

I. Rejection of Claims 2, 3, 5, 8 and 10 Under 35 U.S.C. § 103(a)

The Examiner has rejected Claims 2, 3, 5, 8 and 10 under 35 U.S.C. § 103(a) as allegedly anticipated by U.S. Patent No. 5,914,950 issued to Tiedemann Jr. et al.

Tiedemann Jr. et al. teaches a method of assigning a maximum scheduled transmission rate to a base station. Specifically, Tiedemann Jr. et al. provides only one maximum rate that is applied to all transmission channels.

As disclosed by Tiedemann Jr. et al. with reference to FIG. 8, Channel scheduler 12 selects the scheduled user on the priority list having the highest priority at step 216. The cells supporting this user are identified and listed in the active member set of the user. For each of the listed cells of the active member set, the channel scheduler 12 calculates the maximum supportable transmission rate for the user in step 218. (See: col. 11, lines 32-41).

To ensure that the reverse link capacity allocated to a remote station 6 for a scheduled task can be supported by each cell listed in the active member set, channel scheduler 12 selects the minimum transmission rate from the list of maximum supportable transmission rates at step 220. (See: col. 11, line 65 through col. 12, line 4). The selected minimum transmission rate is defined as the maximum scheduled transmission rate. Thus, in Tiedemann Jr. et al. the maximum scheduled transmission rate is not the actual maximum transmission rate of a given transmission

channel, but rather the least common denominator for all the transmission channels at a given time.

Consequently, it is evident that in Tiedemann Jr. et al. this same maximum scheduled transmission rate is assigned to all of the plurality of transmission channels regardless of the channel's actual maximum transmission rate. Thus, each transmission channel disclosed in Tiedemann Jr. et al. operates at the same transmission rate, regardless of whether a particular transmission channel is capable of a higher transmission rate.

The result of the Tiedemann Jr. et al. disclosed invention is a communications link that maintains a consistent transmission rate across all the transmission channels that may be used. Thus, each transmission channel in Tiedemann Jr. et al. is not utilized at the fullest transmission rate capable. In contrast, Claims 2, 3, 5 and 10 recite: "...each channel of said plurality of channels having a separate maximum transmission rate calculated as each channel's full transmission rate capability..."

The teachings of Tanaka et al. fail to overcome the above-identified deficiency as well. Namely, Tanaka et al. fails to disclose or suggest determining a maximum transmission rate for each of a plurality of transmission channels for a next scheduled transmission time slot for each said mobile station and notifying each mobile station of the determined maximum transmission rate of each of the plurality of transmission channels.

Therefore, for at least the reasons indicated above, Claims 2, 3, 5, 8 and 10 are believed to be allowable over the cited prior art references. Accordingly, Applicant respectfully requests withdrawal of the rejection with respect to Claims 2, 3, 5, 8 and 10 under 35 U.S.C. § 103(a) over Tiedemann, Jr. et al. in view of Tanaka et al.

CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 2, 3, 5, 8 and 10 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



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